

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7123 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE K.G.BALAKRISHNAN

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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MARTAND G WADWERKAR

Versus

PRINCIPAL

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Appearance:

MR DC DAVE for Petitioner

MR JIVANLAL G SHAH for Respondent No. 1

Mr.M.A.Bukhari for Respondent No. 3, 4

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CORAM : MR.JUSTICE K.G.BALAKRISHNAN

Date of decision: 01/05/98

ORAL JUDGEMENT

The petitioner challenges the order passed by the Gujarat Affiliated Colleges Service Tribunal. The petitioner was working as a Fitter in Birla Vishwakarma Mahavidyalay, which is an Engineering College affiliated to Sardar Patel University. The petitioner was made to retire from service on and from 1-10-1984 at the age of

58. The petitioner contended that he was entitled to continue in service upto 60 years and he was liable to retire only on 1-10-1986. The Tribunal held that the petitioner had been working in an Engineering College affiliated to the University and the University Rules provide that the age of superannuation for Fitters is 60 years. However, at the time of passing the impugned order, the petitioner had crossed the age of 60 years and therefore, he could not be reinstated in service and the prayer for salary and allowances for the period between 1-10-1984 and 1-10-1986 was rejected on the principle of no work no pay, as the petitioner had not worked for the aforesaid period.

2. Heard Mr.Dhaval C.Dave, Counsel for the petitioner and Mr.M.A.Bukhari, Government Pleader. The Counsel for the petitioner submits that the petitioner could have continued in service upto the age of 60 years and denial of that right has affected his retirement and pensionary benefits. Eventhough in this petition, the petitioner prayed for salary and allowances for the period from 1-10-1984 to 1-10-1986, the same was rejected by the Tribunal as he had not worked during that period. I find no reason to interfere with that finding. The petitioner was made to retire for no fault of his. The authorities should have followed the Rules and the Tribunal rightly held that he could have continued upto 60 years. Had the petitioner continued in service, he could have got salary and allowances for this period and this two years' period could have been counted for pension also. As the petitioner was made to retire at an early stage, certainly he is entitled to get the two years' period counted for retirement and pensionary benefits.

3. In the result, the petition is partly allowed. The petitioner is directed to make a representation within one month to the 3rd respondent to revise his retirement benefits and pension and on receipt of such a representation, respondent no.3 shall do the needful to revise the retirement benefits and pension order, as if the petitioner continued in service upto 60 years of age. Respondent no.3 shall complete this exercise and pass necessary orders at the earliest but not later than 4 months from the date of receipt of the representation. Rule to that extent is made absolute.

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